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Attorneys for Defendants

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
JAMES WATSON, JOSEPH AVITABILE,
THOMAS McGLADE, and ROBERT
SHEEHAN, Individually and On Behalf
of All Others Similarly Situated,

Plaintiffs,

-against-

CONSOLIDATED EDISON OF NEW YORK
and THE CONSOLIDATED EDISON
PENSION AND BENEFITS PLAN,

Defendants.
-----X

NOTICE OF MOTION

08 Civ. 4436 (JSR)

PLEASE TAKE NOTICE that, upon the annexed Affidavit of Hector J. Reyes, dated July 18, 2008, and the exhibits attached thereto, and the accompanying Memorandum of Law, defendants Consolidated Edison Company of New York, Inc. (improperly named as “Consolidated Edison of New York” in the Complaint) and the Consolidated Edison Pension and Benefits Plan (now known as the “Consolidated Edison Retirement Plan”) (collectively, “Defendants”) will move this Court before the Honorable Jed S. Rakoff, on August 19, 2008 at 5 p.m., in the United States Courthouse, Southern District of New York, United States District Court, 500 Pearl Street, New York, New York 10007, pursuant to Fed. R. Civ. P. 12(b)(1) and 12(b)(6), for an Order dismissing: (1) the Complaint in its entirety for lack of constitutional

standing; and/or (2) Plaintiffs' state law claims as preempted by the Employee Retirement Income Security Act of 1974, as amended; and/or (3) all claims of Plaintiffs Watson, Sheehan and McGlade on the grounds that they have been released and/or are time-barred.

Pursuant to this Court's Order dated July 8, 2008, Plaintiffs' answering papers shall be filed and served no later than August 5, 2008, and Defendants' reply papers shall be filed and served no later than August 12, 2008.

Dated: New York, New York
July 22, 2008

Respectfully submitted,

PROSKAUER ROSE LLP

By: /s/ Myron D. Rumeld
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